

*If none re-  
sponds to your  
call, follow the  
path all alone,  
all alone . . . .*

*If again in the  
stormy night you  
do not find a  
single soul to  
hold the light for  
you, and they all  
close the doors  
against you, be  
not faint-heart-  
ed, forlorn pa-  
triot, but take a  
rib out of your  
side, and light it  
with the fire of  
lightning and  
then, follow the  
Gleam, follow  
the Gleam.*

—TAGORE.

# INDIA'S FREEDOM IN AMERICAN COURTS

*April, 1919*



**FRIENDS OF FREEDOM FOR INDIA**

**92 Fifth Avenue, New York**

**Price  
10 Cents**

**ADDRESS CHANGED TO  
7 EAST 15th STREET,  
NEW YORK**



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## FOREWORD

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*The cases which are presented below are those of young Hindus engaged in the effort to secure the independence of their native land. Whether we believe that the rule of England in India is wise and beneficent, or, in spite of abuses, to be preferred to any alternative, or whether we agree with Bernard Shaw that no nation is fit to rule another, in any case we owe respect and sympathy to these idealists. They represent the hope and aspiration which is the first claim any people can make for freedom, the first sign that it deserves it. Driven from India, they have come to our shores, drawn by the traditional sympathy of this country with ideals of political independence, confiding in the hospitality toward the oppressed of other lands which has been a noble chapter in our history.*

*For the most part they seek to put the cause of India before the world by peaceful discussion so that the circumstances and results of British rule may be a matter of general information—and in the spirit of the new world of international partnership to which we look forward, no such demand can be repressed.*

*In some cases they have been convicted of violating our neutrality laws, and are suffering the penalties therefor. In these cases it behooves us to take care that once the crime against this country is expiated, we do not, by deporting the offenders into the hands of the British authorities, make ourselves the agents of punishment for a foreign power for offences which are no concern of our own. It is particularly important that we do not turn these men over to a government from whom they have fled and by whom they will be executed.*

*This country has always jealously preserved the right of asylum for those of other countries who considered themselves oppressed. Recently we gave full protection to the Cuban revolutionists, who prepared within our borders for armed insurrection against Spain. Today we allow English rule in Ireland to be freely and publicly challenged. Because the Hindus are few in number and weak in resources is no reason why they should be deprived of the historic right to appeal to public opinion in the United States, and from the United States to the world, in the question of the independence of their native land.*



# India's Freedom in American Courts

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The Hindu activity in the United States is obviously and frankly a case of insurgency concerning a foreign government—Great Britain—and was never intended to interfere with the laws or peace of the United States. The activities which have led to the indictment of various Hindus in this country, have their roots 16,000 miles away, in India, where 315,000,000 souls are living in a state of economic and political subjection to Great Britain.

The injustices which the Indian people endure have driven a large number of awakened Hindus into opposition to their rulers. Hindu activity in the United States is but a phase of the Indian movement which aims to gain independence for India; and whatever violation of the United States law has occurred as a result of such activity, was unintended and resulted from the attempt of Hindus to conduct educational propaganda in behalf of their people, regarded by them, and also by British and American authorities, as oppressed. Their efforts, started long before America entered the war, continued during the war, and led to their arrest.

The case now pending concerns the following persons:

1. Sailendranath Ghose, a young graduate of Calcutta University, who came to the United States two years ago.
2. Taraknath Das, a naturalized American citizen, a graduate and Fellow of the University of Washington, a lecturer and author. Mr. Das is now serving twenty-two months' prison term at Leavenworth, Kansas, prison for complicity in the California conspiracy to violate neutrality laws, in 1915, before America entered the war.
3. Bhagwan Singh, a lecturer and poet, who is now serving an eighteen-month term at McNeil Island, Washington, for the same offense as Mr. Das. Mr. Singh is not an American citizen.
4. Agnes Smedley, a young American woman, student at New York University at the time of her arrest, formerly a teacher in California.

5. Mr. and Mrs. W. A. Wotherspoon, of San Francisco; Americans and friends of the Hindus. Mr. Wotherspoon is a retired attorney.
6. Bluma Kraus, of San Francisco, a young Russian girl; friend of the Hindus. Miss Kraus, along with Mr. and Mrs. Wotherspoon, seems to be held because she befriended the Hindus and gave them letters of introduction to her friends.

Mr. Ghose and Miss Smedley were arrested in New York on March 16, 1918, the other defendants being apprehended in San Francisco. Both Miss Smedley and Mr. Ghose were given the "third degree," imprisoned, and their respective places of abode raided without legal warrant of any kind. They, along with the other defendants, were first indicted in New York for violation of Sections 1 and 2 of the Espionage Act. Later they were indicted by the Grand Jury of the Southern Division of the United States District Court for the Northern District of California (San Francisco), for the violation of Sections 2 and 3 of Title 8, and Section 3 of Title 1 of the Espionage Act, approved by Congress, June 15, 1917.

The main charge in the case is that the defendants falsely acted as representatives of a "foreign government" (meaning the Indian Nationalist Party, a political body in India), without prior notification to the Secretary of State; that, in such capacity, they wrote letters to the Secretary of State of the United States and to foreign allied and neutral ambassadors from Denmark, Brazil, Sweden, Japan, the Netherlands, and to Leon Trotzky, of the Russian Socialist Federated Soviet Republic, asking that India's right to freedom be considered, and giving reasons why this should be granted.

Copies of the letters to the Secretary of State and to the foreign ambassadors were sent to hundreds of newspapers throughout the country. In part, they read as follows:

"We rejoice that the government of your own country stands for peace with dignity and justice. True and lasting peace means the removal of the causes of war. The causes of war, whether political or economic, can never be removed unless and until the nations of the world, great or small, are free and independent to shape their own destiny. In view of this, complete freedom and independence of India . . . is essential.

"Imperialism, which inevitably leads to aggression, is the root cause of war. British imperialism insists upon keeping the millions of India in subjection, violating the principles of equity, justice and humanity. Under the present system of alien rule, enforced upon the people against their will and consent, it is impossible to have 'liberty, self-government,

and undictated development' of the people of India. So the Indian Nationalist Party earnestly seeks your co-operation in bringing about an Independent India. . . .

"Free India means freedom for the people of Hindustan, crushed and pilloried for generations by the tyrannical and piratical acts of an alien people. Free India means free China, free Persia, nay free Asia. And if Asia is to unite with Europe to co-operate in furthering the cause of humanity, she must meet her on equal terms—she must first be free and independent.

"On behalf of the three hundred and fifteen million people of India, the Indian Nationalist Party brings this message to you. We put this message before you with a feeling of justice. In the name of Justice and Humanity we beg of you your proper attention to this great problem of India,—for the problem of India is the problem of the world which awaits your careful consideration. The solution of this world problem demands the complete independence of India, and the Indian Nationalist Party earnestly seeks the co-operation of your Government in bringing about this supreme end."

A second charge is that the defendants published a book entitled "*Isolation of Japan in World Politics*," by an Asiatic statesman, which, it is alleged, "contains false statements and reports." The book deals with world politics and states, among other things, that Japan's duty is to repudiate the Anglo-Japanese Alliance in case of a revolution in India, and to give aid to the Indian revolutionists. The introduction to the book is by Hon. Hasayoshi Oshikawa, M. P., of the Imperial Japanese Diet, and the appendices by Dr. Setsusi Miyake, editor of *The Nippon yobi Nihonjin*, of Tokio, and Prof. Dr. Senga Tsurutaro of Kyoto Imperial University. It was originally published in Japanese, but was later translated into English, and published by Miss Smedley in New York. No copies had been distributed, and all were in a store-house.

Mr. Ghose was held in the Tombs Prison, New York, for nine months, in \$25,000 bail. Miss Smedley was held for eight weeks, after which her bail, \$10,000, was furnished. Mr. Das and Mr. Singh were in prison, and the other defendants were released in \$1,000 bail each in San Francisco.

In November, 1918, proceedings were instituted by San Francisco for the removal of the defendants to that city for trial. A motion against removal was made and appealed to the Supreme Court. The appeal is still pending at this time—April, 1919.

In November, Mr. Gilbert E. Roe, counsel, and Charles Recht, attorney for the defense, succeeded in causing the New York indictments to be dismissed, and in December Mr. Ghose was released in



\$6,000 bail. The court also sustained the motion of the attorneys for the defense for the return of all books, papers and personal properties of both Miss Smedley and Mr. Ghose, which had been illegally seized. A few of the books and a few of their personal properties were returned, but the order of the Court was never complied with in full.

## THE NEW CASE AGAINST MR. DAS.

On December 3, 1918, the San Francisco District Attorney, not content with the imprisonment and continued prosecution of the Hindus, brought proceedings against Mr. Das to revoke his citizenship, acquired by naturalization a few years ago. Confined as Mr. Das is, in prison, it is impossible for him to arrange for his own defense or to be present at his trial. The proceedings were brought against him in San Francisco, instead of in Leavenworth, evidently because the authorities thought they could secure his conviction by taking advantage of the anti-Asiatic feeling in California, as well as of the prejudice aroused against the Hindus by the recent Hindu trial. Mr. Das's imprisonment also makes it much easier to deprive him of citizenship. Mr. S. G. Pandit, attorney-at-law, of Los Angeles, has been retained to represent Mr. Das in court.

It is believed by the Hindus concerned, and by Americans who know of the case, that this is merely a preliminary to the intended deportation of Mr. Das, and it is practically a certainty that similar action is to be taken toward other Hindus.

This belief is justified by the case of Gopal Singh, a brief statement of which is appended to this document.

Deportation for a Hindu does not mean what it does to a European, who is returned to the land of his nativity. Often the European is glad to be deported. Deportation for a Hindu Nationalist, however, means one of two things: Imprisonment for life, or execution—generally execution—at the hands of the British authorities in India.

There are no cases so patently and obviously war cases as those of the Hindus. Though the charge is one based upon the violation of an American statute—the Espionage Act—there is every reason to believe that the real power behind it is the British Government. The British Government, for instance, took an active part in compiling the case against the Hindus in San Francisco in 1917-1918, and it brought Indian witnesses under military guard all the way from India, Siam and Shanghai, to testify in American courts against their countrymen.



When the case was finished, the *San Francisco Chronicle* announced that the British Government had spent \$2,500,000 to secure the conviction of the sixteen Hindu Nationalists on trial. Mr. George Denham, of the Criminal Investigation Department in India, a British secret service officer in San Francisco throughout the trial, helped compile the case and helped direct the prosecution.

The hands of British secret police were also seen in the case in New York, one of them, a Mr. Nathan, being one of the inquisitors of the defendants, even going so far as to coerce American citizens in an attempt to secure witnesses against the defendants when they came to trial, and in an effort to learn their attitude toward, and loyalty to, the British Empire.

These cases appeal peculiarly to thoughtful people. They put America in the position of either maintaining or surrendering her hitherto unviolated tradition of political asylum. Various magazines have called attention to this fact; the *New Republic*, in an editorial (February 15), warned our government against becoming an "accomplice of foreign tyrants" in the matter of deportation.

Political refugees from many lands, among them Puren, Rudovich and Kossuth, have sought refuge in America and, from these shores, "have thrown the torch of revolution" into their oppressed countries. In America they have found moral and financial support for their cause, and none of them was prosecuted for the violation of neutrality. Powerful individuals and organizations have protected their interests and have seen to it that they were not treated unjustly.

The Hindus, on the other hand, are few in number, with little American support, with few men of prominence or power here, and such friends and sympathizers as they might have had, even among their own people, have felt that they could not jeopardize their own safety by defending or befriending them.

Quite recently, however, a few Americans have taken an interest in the cases. Some have sympathized with the cause of Hindu freedom, others have thought that at least every man has a right to a fair trial. An appeal for defense funds was first sent out by a committee composed of Leonard D. Abbott, Margaret Sanger, M. E. Fitzgerald and Norman Thomas. More recently still another "Appeal to Americans" appeared in the *Dial* magazine of February 22d, signed by John Dewey, Frank P. Walsh, Paul Kennaday, Clarence Darrow, George W. Nasmyth, William English Walling, Charles Edward Russell, Mrs. Ernest Poole, Mrs. Mary K. Simkhovitch, Robert Morss Lovett, Charles Ferguson, Mrs. Robert Bruere, Miss S. P. Breckinridge and Albert De Silver. These appeals take the stand that every man has a right to a fair trial and that he should not be railroaded to prison for lack of an

adequate defense; that America should continue to grant refuge to those who have sacrificed themselves for liberty, and that the continued prosecution of Hindus, who are working for the freedom of their country, should cease. Also that these men should not be turned over to their executioners, and that they should not be prosecuted under statutes which were intended only to protect this country during a state of war.

### GOPAL SINGH FACES DEPORTATION

Gopal Singh, a young Hindu revolutionist, was convicted in San Francisco in April, 1918, for violation of our neutrality laws. He was one of the men on whom the British Government spent \$2,500,000 to secure conviction in American courts. He was sentenced to one year and one day at McNeil Island Prison, state of Washington. On February 10th, thirteen days before the expiration of his sentence, he was notified that he was to be arrested on February 23rd, for deportation, despite the fact that his original sentence had not imposed deportation upon him.

He was subsequently arrested for deportation and held for violation of the Immigration Act of February 5, 1917. The particular charge read that he had been sentenced, "subsequent to the passage of said Act, to imprisonment for a term of one year or more because of conviction in this country of *a crime involving moral turpitude* committed within five years after his entry into the United States." And, that he was "a person likely to become a public charge at the time of his entry."

Gopal Singh's case was purely political; his sole interest was in propaganda for the freedom of his own native land. He had taken no part in political, social or economic unrest in America. In fact, the code of honor of Hindu Nationalists does not permit them to criticize the institutions of countries in which they take refuge. If America had had any interest in this deportation proceeding, Gopal Singh's *original* sentence would have included it.

The deportation of this young man to India will mean his death. For a Hindu, who has worked for the freedom of his country, there is but one alternative to death and that seldom used, and that is imprisonment for life.

Gopal Singh has served his sentence for violation of our laws. He has been punished, and justice would decree that a man should not be punished twice for the same act. Deportation for him or for any other Hindu, will mean that we in America seek not alone justice, but vengeance; either that, or that we are submissive tools of a foreign government which seeks to keep us ignorant of the truth about India,

and at the same time claims as its victims men who seek to enlighten us, to secure our active sympathy and support, and to free their native land from an alien rule.

If Gopal Singh is deported, other Hindus will follow: Santok Singh now in McNeil Island Prison who will finish his term in June; Bhagwan Singh, in the same prison, who will finish his sentence in August; Taraknath Das, in Leavenworth, if his citizenship is revoked; and other Hindus as yet unconvicted.

American historic tradition of granting refuge to political refugees is threatened. We have laws to punish offenders who violate our laws. If we turn Hindu political prisoners over to the foreign rulers of their land, from whom they have fled to our shores, we are not only guilty of sending men to their death, but we are sending to death our own proudest of traditions and most idealistic principle—that of granting refuge to the oppressed of other lands.

### WHAT YOU CAN DO.

If you sympathize with the cause for which these young Indians have sacrificed themselves—for the freedom of India—or if you merely believe that they have a right to an adequate defense and to asylum, your financial help is requested, and will be gratefully received. Most of all, if you wish to protest against the act of hurling them into the arms of their executioners, your help is urged.

Write letters to Secretary Wilson of the Department of Labor, protesting against this action. Demand that Gopal Singh and other Hindus be permitted to remain in America after they finish their prison terms and that further prosecution of them cease. Support the Friends of Freedom for India, an organization whose purpose is to protect the Hindus from such acts of injustice as this.

Checks and money orders should be sent to, Treasurer

FRIENDS OF FREEDOM FOR INDIA,  
92 Fifth Avenue, New York

## THE ACID TEST

The acid test is being applied to American idealism.

This acid test is the case of the Hindu refugees and political prisoners now in America who, unlike the Irish or Russians, are few in number, poor in financial resources, and without political backing.

For a number of years Hindus, who have worked for the independence of India from British rule, have been forced to seek refuge in other countries. Many of them have come to America. Here they have attempted, as have revolutionists from other countries, to carry on their propaganda.

Some nineteen Hindus were convicted in 1918, for violation of neutrality laws in 1915, before America entered the war. Some of these men, after finishing their prison terms, are now facing deportation. One is held in Seattle, Washington, for this purpose.

Other Hindus were arrested in 1918 for carrying on propaganda in behalf of the freedom of India. These men are now awaiting trial for alleged violation of the Espionage Act.

This means that America is violating her proudest tradition, that of granting refuge to the oppressed of other lands; that America is willing to hurl back into the arms of their executioners men who have sacrificed themselves for liberty; men who "represent the hope and aspiration which is the first claim any people can make for freedom."

To protect the Hindus who are in trouble because of their activities in behalf of the freedom of India, and to keep Americans in touch with the problems of India, a number of men and women have organized a Friends of Freedom for India.

The Friends of Freedom for India aims (1) to maintain the right of political asylum and to see that Hindu political prisoners and refugees get justice in the light of American traditions;

(2) to assist in fair, frank and open discussion that the truth about India may be ascertained.

It is the work of this organization to furnish legal assistance to these Hindus, to hold occasional meetings, to publish tracts about the cases and about conditions in India, and to furnish other aid when necessary and when possible.

We need your moral and financial support. Help us withstand the acid test.

### FRIENDS OF FREEDOM FOR INDIA

92 Fifth Avenue, New York

ROBERT MORSS LOVETT, Temporary President

FRANK P. WALSH, Vice President

AGNES SMEDLEY, Secretary

DUDLEY FIELD MALONE, Vice President

LOUIS P. LOCHNER, Treasurer

*Checks should be made payable to the treasurer.*

I hereby pledge to the Friends of Freedom for India a monthly (quarterly) contribution of \$\_\_\_\_\_ to be used to promote the objects of the organization.

Signed\_\_\_\_\_

Address\_\_\_\_\_

Date\_\_\_\_\_